

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

)	Case No. 5:19-cv-07651-EMC
INTEL CORPORATION, APPLE INC.,)	
)	
Plaintiffs,)	
)	MOTION BY HIGH TECH INVENTORS
v.)	ALLIANCE AND COMPUTER &
)	COMMUNICATIONS INDUSTRY
)	ASSOCIATION FOR LEAVE TO FILE
FORTRESS INVESTMENT GROUP LLC,)	<i>AMICUS CURIAE</i> BRIEF SUPPORTING
FORTRESS CREDIT CO. LLC, UNILOC)	PLAINTIFFS' OPPOSITION TO
2017 LLC, UNILOC USA, INC., UNILOC)	DEFENDANTS' MOTION TO DISMISS
LUXEMBOURG S.A.R.L., VLSI)	
TECHNOLOGY LLC, INVT SPE LLC,)	
INVENTERGY GLOBAL, INC., DSS)	Judge: Hon. Edward M. Chen
TECHNOLOGY MANAGEMENT, INC.,)	
IXI IP, LLC, and SEVEN NETWORKS,)	
LLC,)	
)	
Defendants.)	

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that, on the papers or at a hearing ordered by the Court, the High Tech
 3 Inventors Alliance (“HTIA”) and Computer & Communications Industry Association (“CCIA”) will
 4 move for leave to file a brief as *amici curiae* in support of the Intel Corporation (“Intel”) and Apple Inc.
 5 (“Apple”) in opposing Defendants’ Motion to Dismiss and to Strike Plaintiffs’ Complaint, Docket No.
 6 111. In light of General Order Nos. 72 and 73 of this Court regarding the coronavirus emergency, and this
 7 Court’s Order vacating oral argument on Defendants’ Motion to Dismiss and to Strike Plaintiffs’
 8 Complaint, *amici* do not believe the Court wishes them to set a hearing date at this time, and will await
 9 any order from the Court regarding a potential hearing.

10 *Amici* have filed their proposed *amicus curiae* brief as Exhibit 1 to this motion. This motion is
 11 based on the arguments below, the proposed *amicus curiae* brief, the pleadings and papers on file in this
 12 action, and any other matters of which the Court may take notice.

13 HTIA and CCIA conferred with the parties in advance of filing this motion. Plaintiffs do not
 14 oppose. By the time of this filing, defendants were not able to provide their position.

15 INTEREST OF AMICI CURIAE

16 High Tech Inventors Alliance (“HTIA”) is a non-profit corporation dedicated to advancing a patent
 17 system that promotes and protects real investments in technologies and American jobs. HTIA supports fair
 18 and reasonable patent policy through publication of policy research, providing testimony and comments to
 19 Congress and government agencies including the United States Patent & Trademark Office, and sharing
 20 industry perspective with courts considering issues important to the technology industry.

21 HTIA’s members, listed at <https://www.hightechinventors.com/about>, are some of the most
 22 innovative technology companies in the world, creating the computer, software, semiconductor, and
 23 communications products and services that support growth in every sector of the economy.¹ HTIA
 24 members rely on a well-functioning patent system as they collectively invest about \$75 billion in research
 25 and development each year. HTIA members also contribute significantly to employment and the
 26 economy, providing more than 1.3 million jobs and generating more than \$600 billion in annual revenues.

27
 28 ¹ Although plaintiff Intel Corporation is a member company of HTIA and CCIA, Intel did not
 contribute to this brief.

1 HTIA's mission is to promote balanced patent policies that preserve critical incentives to invest in
 2 innovation, research, and American jobs.

3 The Computer & Communications Industry Association ("CCIA") is an international non-profit
 4 association representing a broad cross-section of computer, communications, and Internet industry firms,
 5 listed at <http://www.ccianet.org/members>, that collectively employ nearly a million workers and generate
 6 annual revenues in excess of \$540 billion. CCIA believes that open, competitive markets and original,
 7 independent, and free speech foster innovation. It regularly promotes that message through *amicus* briefs
 8 in this and other courts on issues including competition and patent law.

9 CCIA's members rely on the patent system to protect innovation. CCIA members receive more
 10 than 150,000 U.S. patents each year and regularly appear in the list of top U.S. patent recipients. At the
 11 same time, CCIA members are frequently the recipients of baseless patent assertions. CCIA seeks to
 12 promote a balanced system that rewards innovation while also preventing abusive patent acquisition and
 13 assertion campaigns that chill investment in productive activity and harm the competitive process.

14 This case involves important questions about patent acquisition and assertion. HTIA and CCIA
 15 support a balanced patent system that ensures high quality patents and benefits to innovation.

16 ARGUMENT

17 The Court has broad discretion to appoint *amicus curiae*. *Hoptowit v. Ray*, 682 F.2d 1237, 1260
 18 (9th Cir. 1982). "District courts frequently welcome *amicus* briefs from non-parties concerning legal
 19 issues that have potential ramifications beyond the parties directly involved or if the *amicus* has unique
 20 information or perspective that can help the court beyond the help that the lawyers for the parties are able
 21 to provide." *Sonoma Falls Developers, LLC v. Nevada Gold & Casinos, Inc.*, 272 F. Supp. 2d 919, 925
 22 (N.D. Cal. 2003) (internal quotation marks and citation omitted). "*Amici* fulfill the classic role of *amicus*
 23 *curiae* by assisting in a case of general public interest, supplementing the assisting in a case of general
 24 public interest, supplementing the efforts of counsel, and drawing the court's attention to law that might
 25 otherwise escape consideration." *Funbus Sys., Inc. v. State of Cal. Pub. Utilities Comm'n.*, 801 F.2d 1120,
 26 1125 (9th Cir. 1986) (citation omitted).

27 For these reasons, courts have "exercised great liberality" when determining whether to allow
 28 *amici* to participate in a case. *Woodfin Suite Hotels, LLC v. City of Emeryville*, No. 06-1254, 2007 WL

81911, at *3 (N.D. Cal. Jan. 9, 2007). There are “no strict prerequisites that must be established prior to qualifying for *amicus* status; an individual seeking to appear as *amicus* must merely make a showing that his participation is useful or otherwise desirable to the court.” *Id.* (internal quotation marks and citation omitted). This Court has welcomed *amicus* briefs where “the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (internal quotation marks and citation omitted); *see, e.g., State of California v. Azar*, Docket No. 54, 19-01184 (N.D. Cal. Apr. 5, 2019); *Staley et al. v. Gilead Sciences, Inc., et al.*, Docket No. 199, 19-2573 (N.D. Cal. Nov. 7, 2019).

Here, proposed *amici* HTIA and CCIA provide important industry perspective on the allegations before the Court, representing the experience of their members as leaders in technology. As they explain in their statement of interest, *supra*, HTIA and CCIA are non-profit organizations dedicated to the promotion of technology and innovation through a healthy patent system. Relying on their members’ experience, HTIA and CCIA propose to provide the Court with perspective and experience regarding the allegations of plaintiffs’ complaint and the effect they would have, if true. HTIA and CCIA’s proposed *amicus* brief is not duplicative of any party’s filing, but addresses issues not briefed by the parties. In short, HTIA and CCIA respectfully submit that their “participation is useful or otherwise desirable to the court,” and that the Court should grant leave to file their proposed *amicus* brief. *Woodfin*, 2007 WL 81911, at *3.

CONCLUSION

For the foregoing reasons, HTIA and CCIA respectfully request leave to file the accompanying *amicus curiae* brief in support of Plaintiffs’ Opposition to Defendants’ Motion to Dismiss and to Strike Plaintiffs’ Complaint.

Date: March 23, 2020

Respectfully submitted,



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